

**DALLAS COUNTY
BOARD OF ADJUSTMENT
MINUTES**

The Dallas County Board of Adjustment was called to order on **January 15th, 2014** at 4:30 P.M. in the Dallas County Board Conference Room at 902 Court Street in Adel, Iowa, by Chair-Person, Marilyn Gliem. Members present were Marilyn Gliem, Scott Pope, and Karen Smith. Member absent was Ernest Baiotto. There is one open position on the Board of Adjustment. Others present were Murray McConnell, Director of Planning and Development, and Samuel Larson, Planner II and G.I.S. Technician.

Approve Agenda:

Motion by S. Pope **to approve** the agenda as presented. Seconded by K. Smith. **Ayes unanimous. Motion carried.**

Approve the Minutes of the last meeting of November 4, 2013:

Motion by S. Pope **to** dispense with the reading of the Minutes of the last meeting, and **approve** them as written. Seconded by K. Smith. **Ayes unanimous. Motion carried.**

Old Business: (None)

New Business:

Item 1: A Petition for a Variance to allow an accessory building to extend into the front yard and at a reduced front setback on Parcel #08-14-200-008, which is Lot 2 of "Turkey Creek Subdivision" located in the NW1/4 of the NE1/4 of Section 14, T80N, R26W (Grant Township) **for Tim Wolfswinkel.**

Tim Wolfswinkle speaking: I have been talking to Mr. Murray McConnell. I guess the reason I would like to do it is to be able to go a little bit closer to the road, just because at present there is kind of a base formed there already. It is a little bit higher in elevation. I guess a concern of mine, and also my insurance company is asking, if there is a flood risk, so I feel like the closer I can get to that road the better. There is not a tremendous drop in grade to the back, but there is some. The longer I have to make my approach to get to that then the more money it costs me. Do you have any other questions?

Board Questions:

S. Pope asked: Looking at the picture there is that light colored ground behind the building. What is that? Is that just like a parking lot or what?

T. Wolfswinkle answered: The light colored area is what the previous homeowner put in there. It is like a paddock, which is what she calls it. It is just lime put on it at the grade.

S. Pope asked: So she had livestock on it, like horses, or something?

T. Wolfswinkle stated: She had horses. If you look directly to the east where the building would sit, that is all gravel base and crushed concrete. That is all built up a little bit further. I guess there are two different scenarios that I would like to do. One would be to build on to the existing building, and if you can kind of imagine, as it is hard to see in the photo, there was an existing rectangular building and the peak goes north and south at the ridge line. There are two lean-to's that are already built on along the east side, so building out that way is going to cost me more, because I want to build a bigger structure. I would either have to get rid of those lean-to's by tearing them off, or by demolishing them. If I were to build on the other side I could do a frame over and build towards the west and utilize that existing grade, and then I

can also utilize the lean-to's that are already there on the opposite side. There would be another reason why I would want to build that way.

M. Gliem asked: And the building is going to be used for?

T. Wolfswinkle answered: I am a small business owner. I have a roofing company. There might be a little bit of livestock, or a couple horses at the very most.

M. McConnell stated: You can't do that.

S. Pope speaking: Yes, you get livestock in there, and then you start getting into other setback issues.

T. Wolfswinkle speaking: Then I won't do any livestock. I have no problem with that.

S. Pope asked: I guess maybe he could do it out the back, couldn't he Murray, where the old paddock was?

M. McConnell answered: I mean that is the problem I have with the variance. Contrary to what you have said, Tim, I have been trying to have a conversation about this for a long time, I mean, to get a variance you have to prove some kind of hardship and flooding just isn't an issue, because there is no flood plain anywhere on your parcel. Just "guesstimating" from the contour map that we have, it is at least 6' higher here than in the flood plain. You wouldn't get a building permit if it was going to flood. You can't just go closer to the road because you want to. There has to be a reason for it. There are also issues with whether, or not, you can use this for a business. It has got to fit a home occupation, because this is not zoned to operate any kind of business. If you have other employees or things like that coming there, you can't do that.

T. Wolfswinkle stated: No, it would just basically be a small warehouse where I can put stuff in. When I say small, it is a small business. There are not semi's going through. I have a truck and a dump truck.

M. McConnell speaking: Well, you are going to have to come in the office and review what is allowable under home occupation and sign that, and I haven't seen anything yet that convinces me that we should allow you to go closer to the road than the 50' that is required, because flooding is not an issue. It just isn't.

T. Wolfswinkle speaking: Well, I guess the 500 year flood plain would be in there wouldn't it?

S. Larson stated: There is no 500 year floodplain.

M. McConnell speaking: No, there isn't anything.

S. Pope agreed: Yes, it seems like your house would be in more danger than the building would be, if you are talking about the creek here.

T. Wolfswinkle asked: Well, is the green right here indicating the 100 year flood plain on here?

S. Larson answered: Yes.

T. Wolfswinkle asked: So?

M. McConnell stated: We have a contour map you can look at. It is anywhere from 6-8' higher than that flood level.

T. Wolfswinkle asked: Well, what about like having standing water issues?

M. McConnell answered: Well, that is not flooding. That occurs in a lot of places.

T. Wolfswinkle asked: So, what if I was only asking for like 10'? Would that make any difference?

M. McConnell answered: Well, it has nothing to do with you personally, but you have to prove a hardship. Why should we let you go any closer to the road than the 50'?

T. Wolfswinkle asked: Then what by definition is a hardship? Because it feels like I just explained what, I mean it is going to cost me more money, and I believe that is -----

M. McConnell asked: How much more, and give us I mean usually people will bring us some pictures or some drawings showing us some detail? I asked for that a long time ago. I sent you an e-mail on December 19th. You answered it yesterday.

T. Wolfswinkle stated: I did have a guy who came in there, and he didn't give me a formal bid or anything, but he thought the cost if I built on the other side of it, it would be \$5,000 to \$10,000 to get it all graded out. He thought the other side of it would be between \$2,000 to \$3,000 to level it out nice.

M. McConnell speaking: Well, it would be nice if we had some documentation to look at, because you know I have a hard time accepting that. I don't know what the rest of the board thinks.

S. Pope speaking: Well, it seems like we deal with a lot of these types of issues, but I would say that 9 out of 10 of them if not 10 out of 10 of the ones we approve are because they have a true topographical big grade differential there, or a number of other issues there. Like Murray said, there has to be a hardship there by the zoning laws the way they are. We are kind of the Board of last resort. If people can't get through based on the current zoning, they can ask us for a variance if they can show a hardship. I am wondering, Murray, if we put this off until he can come up with some plans and documents. I hate to say no to you, but I am thinking if maybe that would be the best option. If you can come up with something else with plans that show us, or get us a ground engineer, or someone like a grading contractor.

M. Gliem stated: And that person can come before the board and speak on your behalf also.

T. Wolfswinkle answered: Ok.

M. McConnell speaking: And then the other thing is you need to review our ordinance in regards to home occupation, because if you can't fit that you can't have your business on this property.

S. Pope stated: So, I guess it is up to you. We can vote on this now, or if you want to table it and come back later and see if we can work something out?

T. Wolfswinkle answered: I guess I do have a huge concern with not being able to run a business out of there. Am I going to need a variance for that?

M. McConnell stated: There is no variance for something that is not allowed.

T. Wolfswinkle asked: So it is zoned Ag and I can't even run a business out of there?

M. McConnell answered: Well, look in the zoning ordinance under the district regulations for A-1. If you see your business listed there, then you can do it. If it is not listed you can't do it.

T. Wolfswinkle stated: Ok.

S. Pope speaking: We have had several of those over the years that I have been on this board, as well. People just aren't aware what the restrictions are.

T. Wolfswinkle speaking: The D.N.R. has given me a landowner's permit. I can shoot 5 deer a year off there. I mean I am out in the sticks, basically. I understand what you are saying, but man if I am told I can't run a business, a small business with minimal traffic and no employees, I guess that would sure be a bad deal.

M. McConnell stated: And I am not saying that you can't, but you should come in and look at that form that details what you can do, or what will qualify as a home occupation. It is something that should have been done before you bought the property, which is what people often times don't do, or they rely on what their real estate person tells them.

Motion by S. Pope **to table this request for a Variance to allow an accessory building to extend into the front yard and at a reduced front setback** on Parcel #08-14-200-008, which is Lot 2 of "Turkey Creek Subdivision" located in the NW1/4 of the NE1/4 of Section 14, Grant Township **for Tim Wolfswinkel**. Seconded by K. Smith. **Ayes unanimous. Motion carried.**

Motion by S. Pope **to adjourn** the meeting. Seconded by K. Smith. **Ayes unanimous. Motion carried.**

Meeting adjourned.

Pat Penn
Planner I